

October 13, 2014

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Area Manager  
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VIA ELECTRONIC MAIL

Re: Draft Revised Plan of Operations for New Melones

Dear Sue:

Thank you again for inviting NRDC, The Bay Institute, and other conservation groups to attend the September 30, 2014 briefing on the draft Revised Plan of Operations for New Melones ("Draft Revised Plan"). Per your request, we are providing some initial feedback on the presentation, although we are unable to provide a more detailed review because of the Bureau's denial of our request to extend the comment period on the Upper San Joaquin River Basin Storage Investigation DEIS.

In general, we have significant concerns with the Draft Revised Plan, and we strongly urge Reclamation not to include the Draft Revised Plan in the proposed action for the remanded NEPA analysis or draft biological assessment.

First, the Draft Revised Plan fails to comply with the terms and conditions of Reclamation's water rights permits, which require Reclamation to achieve Vernalis flow objectives for salmon, water quality, and other beneficial uses, pursuant to Decision 1641. The flows proposed in the Draft Revised Plan appear to be substantially lower than existing flows in the Stanislaus River (particularly in drier and average water year types), and absent additional voluntary actions by other parties, the modeled flows result in widespread noncompliance with existing Vernalis flow standards and substantially lower flows than today. As such, the proposed operations would violate the terms and conditions of Reclamation's water rights.

Second, there is overwhelming scientific evidence that existing flows in the tributaries and lower San Joaquin River during the winter and spring months are inadequate to sustain and restore salmon and other fish and wildlife. Similarly, there is voluminous scientific evidence that reducing flows in the tributaries and at Vernalis during these months will result in substantial adverse environmental impacts. Because the Draft Revised Plan appears to result in substantial reductions in base and pulse flows in the winter and spring, the proposed operations would likely result in substantial adverse environmental impacts to fall and spring run Chinook salmon, Central Valley steelhead, and other fish and wildlife.

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Third, the Draft Revised Plan ignores the State Water Resources Control Board's ("Board's") pending decision regarding Vernalis flow requirements (February to June) as part of Phase I of the update to the Bay Delta Water Quality Control Plan. The Board released a draft substitute environmental document for Phase I in December 2012, and the Board currently anticipates releasing a revised draft substitute environmental document for Phase I in November or December 2014, with a final decision adopted in 2015. There has been little to no indication through this process that the Board anticipates adopting a decision that would reduce instream flows during these months. Indeed, in 2013 the U.S. Fish and Wildlife Service stated that the Board's 35% unimpaired flow alternative would result in lower magnitude flows than under the 2009 biological opinion and "are likely insufficient to (1) meet the narrative LSJR Fish and Wildlife Objective, (2) significantly improve conditions for salmonids or (3) double natural production of anadromous fish, including Chinook salmon and steelhead in the San Joaquin basin."<sup>1</sup>

Fourth, it appears that the Draft Revised Plan is not consistent with requirements of the existing biological opinion on the Stanislaus, including water temperature, pulse flow, and Vernalis flow requirements. For instance, reservoir releases under the Draft Revised Plan appear to be insufficient to achieve peak flows required under RPA Action III.1.3; there is no indication that the flow schedule includes the 3,000 to 5,000 cfs channel forming and maintenance flows required under the biological opinion, nor that it would achieve the spring pulses and fall pulses set forth in Appendix 2-E of the biological opinion. In addition, it appears that April 1 to May 31 flows under the Draft Revised Plan would be insufficient, even with additional flows from the Tuolumne and Merced Rivers, to achieve the minimum Vernalis flows set forth in RPA Action IV.2.1. And the presentation indicates that to date, no water temperature modeling or floodplain inundation analysis has been performed, which would be necessary to determine whether RPA Action III.1.2 is likely to be achieved.

NRDC and TBI recommend that Reclamation wait for the SWRCB to adopt new instream flow standards as part of the update of the Bay-Delta Water Quality Control Plan before considering adopting a new revised plan of operations for New Melones. At the very least, Reclamation should ensure that its proposed revised plan of operations complies with the Board's revised Phase I draft decision to be issued later this year and other existing requirements. As currently proposed, the Draft Revised Plan fails to reflect the best available science and is likely to be inconsistent with new water quality objectives to be adopted by the Board in 2015. We encourage Reclamation to continue modeling the Draft Revised Plan, including analysis of alternatives that do not reduce instream flows and do meet temperature, DO, salinity, and other downstream water quality requirements. We also suggest modeling the 1987-1992 drought as the "drought of record" instead of the somewhat wetter 1928-34 period.

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<sup>1</sup> U.S. Department of the Interior 2013. Comments on Draft Substitute Environmental Document in Support of Potential Changes to the Water Quality Control Plan for the San Francisco Bay-Sacramento River/San Joaquin Delta Estuary: San Joaquin River flows and Southern Delta Water Quality, March 29, 2013. Available online at: [http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/hearings/baydelta\\_pdsed/docs/comments032913/amy\\_aufdemberge.pdf](http://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/baydelta_pdsed/docs/comments032913/amy_aufdemberge.pdf). This letter is hereby incorporated by reference.

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Thank you for the opportunity to comment. Please contact us with any questions or concerns.

Sincerely,

The image shows two handwritten signatures in black ink. The signature on the left is 'Kate S. Poole' and the signature on the right is 'Gary Bobker'.

Kate Poole  
Senior Attorney, NRDC

Gary Bobker  
Program Director, The Bay Institute